

PROVISIONAL: FOR PARTICIPANTS ONLY

UNITED NATIONS

Distr.
RESTRICTED

9 April 1975

THIRD CONFERENCE
ON THE LAW OF THE SEA

ENGLISH
Original: FRENCH

Third Session

GENERAL COMMITTEE

PROVISIONAL SUMMARY RECORD OF THE TENTH MEETING

held at the Palais des Nations, Geneva,
on Monday, 7 April 1975, at 10.50 a.m.

Chairman:

Mr. AMERASINGHE

Sri Lanka

Rapporteur-
General

Mr. RATTRAY

Jamaica

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GE.75-64226

PROGRESS OF WORK: REPORTS BY THE CHAIRMEN OF THE COMMITTEES

The CHAIRMAN said that the Chairmen of the three Committees had informed him of the progress of their work, which might be summarized as follows:

The Chairman of the Second Committee had reported that his Committee had completed its second reading of working paper/A/CONF.62/C.2/WP.1 the previous week and would begin immediately to set up small working groups to study specific subjects. Meetings of the full Committee would be convened formally or informally, as circumstances dictated. So far three working groups had been set up, one dealing with baselines, one with historic bays and the third with access to the sea. The Committee hoped soon to reach agreement on a single text relating to baselines. On the other hand, there was as yet no prospect of a final conclusion on historic bays. The Chairman of the Second Committee had reported that the working group on access to the sea consisted of eight transit States chosen by him and five land-locked States; he intended to set up three other working groups to study innocent passage in the territorial sea, the contiguous zone and the high seas. He had added that delegations had not yet held consultations on questions relating to the economic zone and the continental shelf.

The Chairman of the First Committee had had nothing specific to report and had stated merely that the working group of the First Committee was continuing its work.

The Chairman of the Third Committee had stated that it had set up two groups of the whole to consider items 12, 13 and 14 of the agenda.

He said that the Rapporteur-General had asked whether machinery should not be established as soon as possible within the Conference for the conduct of negotiations on critical issues. The Chairman of the Second Committee had said that he was trying to establish such a group, and that the Eastern European States had already nominated four representatives to it. The Chairman of the Third Committee had said that care must be taken to ensure that the proposed group was as representative as possible, without thereby becoming less effective. He himself fully shared that view; he thought it would be impossible to negotiate effectively in a 140-member group. In his view, the ideal number would be about 50.

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The Chairman of the Third Committee had also suggested that the time might have come for the Drafting Committee to start work. In that connexion, he had proposed a two stage procedure: the Chairmen of formal or informal working groups would set up a small group consisting of countries particularly interested in a given question. When that small group had completed its work, all discussions on the question would be suspended, and it might be useful at that stage to seek the help of the Drafting Committee. The Chairman of the Drafting Committee, in turn, had observed that his Committee would act as a co-ordinating group, and not as a negotiating group, in accordance with its terms of reference under rule 53 of the Conference's rules of procedure.

The Chairman of the Third Committee had also pointed out that general policy matters might be considered by the negotiating group, with purely technical questions being handled differently.

The Chairman of the First Committee had asked at what stage a text should be sent to the Drafting Committee - whether, for example, the Drafting Committee should be called upon when a text had already been agreed upon, at the risk of destroying the delicate balance achieved at great pains. He (the President) believed that the Drafting Committee should consider, not individual articles, but a whole series of related articles. In his view, the Drafting Committee would not treat problems in the same way as the working groups: it would take into account divergent views, strive to reconcile differing opinions and to find a formula acceptable to the majority of its members, and then report to the Chairman of the Committee concerned.

The Chairman of the Drafting Committee had taken the view that the proposed consultative group stood little chance of achieving general agreement and should be assigned a co-ordinating role. He himself held, however, that the new group should not be merely a co-ordinating body: it should also negotiate actively. If it failed to reach agreement, it should inform the Chairman of the Committee concerned without delay and bring to his attention the outstanding points of disagreement.

The Chairman of the First Committee had said that the working group of that Committee had begun to study definitions and, in consultation with a small group, was producing a draft of articles 1-21 for submission to the contact group.

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The Chairman of the Third Committee favoured the following procedures: a small group of countries directly concerned would study a question and then report to the main working group, which would submit the results of its work to the Chairman of the Committee. The latter would then convene the consultative group and negotiations would begin. He himself found that those three stages constituted a logical sequence. The following stage would be for the consultative group to report on the results of its work to the full Committee. The Chairman of the Committee would have to decide at what stage a text should be referred to the Drafting Committee. He himself thought it desirable, and even essential, that the Chairmen of the Main Committees should be required, at some stage, to submit a single text, on the understanding that amendments might be submitted during negotiations by delegations which considered some aspects of the single text unsatisfactory.

He invited delegations to express their views on the matters he had outlined before the Committee went on to consider the establishment of negotiating machinery in the form of a consultative group consisting of contact groups nominated by each regional group and by countries which participated in no regional group.

Mr. SCHREIBER (Peru) asked whether the Drafting Committee would produce a text to serve as a basis for discussion with a view to facilitating the work of the Committees. If that were to be the case, he would question the propriety of the proposed method, inasmuch as the Drafting Committee was not empowered to initiate texts but merely to play a co-ordinating role.

The CHAIRMAN said that the Drafting Committee would propose no texts. It might combine several texts and make suggestions, but it would have to keep strictly within the functions assigned to it in the rules of procedure. Its work would be to co-ordinate and to draft.

Mr. RODRIGUES (Brazil) asked what kind of text the Drafting Committee would be required to draft: a text which would form the subject of negotiation or a final text having the approval of the Committee concerned.

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The CHAIRMAN said that it would be for the Chairman of the Committee concerned to decide of what type the text referred to the Drafting Committee should be. The decision would probably be taken in consultation with the Committee or the working group, according to circumstances.

Mr. PI Chi-lung (China) asked for further information about the consultative group whose establishment the Chairman had suggested, since it had not been mentioned before.

The CHAIRMAN said that the Conference had as yet no negotiating machinery and that, in his view, such machinery was essential.

Mr. ZEGERS (Chile) said that he would welcome the establishment of official consultation machinery. He pointed out, however, that if a contact group consisting of eight regional representatives was set up, it would have the same membership as the General Committee. He asked why, if that was the case, the General Committee could not perform the functions of the proposed group.

The CHAIRMAN said that the General Committee could not act as a negotiating body.

Mr. SCHREIBER (Peru) remarked that so far the Chairman had confined himself to summarizing his consultations and had made no formal proposal for the establishment of a negotiating group.

The CHAIRMAN said that he had consulted the Chairmen of the three Main Committees, the Chairman of the Drafting Committee, the Rapporteur-General and the Chairmen of the five regional groups regarding the creation of suitable machinery for the conduct of negotiations. In his opinion, it was imperative that such machinery should be established with the least possible delay for the purpose of conducting negotiations both at the Committee level and at the Conference level. The device of a consultative group composed of contact groups, nominated by each regional group and by States which were members of no regional group, had been used with success in the past. If negotiations were to be effective, the number of States participating in them would have to be restricted.

He was fully aware of the fact the classification of States by regional groups was not relevant so far as the work of the Conference was concerned. Regional grouping was being used purely as a matter of convenience, and it was to be hoped that each regional group, when deciding on the composition of its contact group, would ensure that all

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interests were properly represented. Meetings of the consultative group would be open to all, but he suggested that participation in the actual debate on any item should be limited to about eight members designated by the regional group itself. The membership of the contact group would not, however, be limited to eight. Alternates could be included, so as to permit countries particularly interested in an item to participate in the debate. At the Committee level, the membership of the contact groups might differ from one Committee to another at the discretion of the regional group concerned. At the Conference level, however, there would be only one consultative group. Changes in the membership of contact groups would be left to the discretion of the regional groups themselves. He hoped that the Chairmen of the regional groups would consider the proposal and take the necessary steps.

Mr. SCHREINER (Peru) expressed doubts as to the soundness of the method proposed by the Chairman. Some regional groups would have great difficulty in appointing contact groups, and delegations which did not participate in the work of the contact groups would be reluctant to accept mere observer status. Furthermore, the method proposed might give rise to useless duplication of effort; each completed text would, of course, be submitted to a second forum in which all States were represented, but there was a strong possibility that States which had not participated in the negotiations would not accept their outcome - a situation which would lead to a re-opening of the debate. It would therefore be difficult to secure acceptance of the proposed method by the full membership.

He proposed that the Conference should instead hold informal plenary meetings, with the participation of all delegations, on the most important and controversial questions on its agenda. He proposed that, in order to speed up the work, the time allowed to each speaker should be limited to five minutes. Statements would relate only to the texts under consideration. Delegations would speak only on those aspects of the question which, in their view, were in dispute. They would confine themselves to making specific proposals and refrain from making general policy statements. The chairman of each regional group would report the position of the other members of his group and defend their common interests. Each delegation would have to refrain from taking the floor to repeat observations already made by other delegations holding the same point of view.

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With regard to documents, he said that the First Committee already had basic documents before it. The Second Committee, given the stage its work had reached, could easily submit basic texts, with variants reflecting the main trends. They would simply be preliminary draft texts which could be elaborated or redrafted later and which would not represent the official position of the officers of the Committee.

He felt that, in any case, the importance of the issues involved required that all States represented at the Conference should be able to participate on the same footing in the negotiations on crucial issues.

Sir Roger JACKLING (United Kingdom) said that, although he shared the Chairman's concern, he was not sure that the establishment of formal negotiating machinery would really help to speed up the work of the Conference. Each Committee was already engaged in negotiations, and it was for the chairmen to speed up the process. The establishment of a consultative group formed from among contact groups or regional groups had never in the past given very good results and had rarely led to real negotiations. The task of carrying out such negotiations should be entrusted to the Chairmen of the Committees. He agreed with the representative of Peru that all delegations should be able to participate on an equal footing in the negotiations. In his view, the other suggestions made by the representative of Peru could easily be followed. However, he was not in favour of informal plenary meetings. He could not, therefore, support the establishment of an informal negotiating group.

Mr. TREDINNICK (Bolivia) said that he shared the Chairman's concern about the progress of the Conference. He believed that the arrangements proposed by the representative of Peru should be adopted and that special-interest groups should be pre-eminent.

Mr. ENGO (United Republic of Cameroon) expressed the view that the procedure proposed by the Chairman could not, as matters stood, be applied at the level of the plenary Conference. The Peruvian proposal deserved consideration, but some points of it might cause great difficulty. It was hard to say at what stage a question could be referred to the Drafting Committee; that Committee might seek to make last-minute changes to a text which the Committee had had great difficulty in preparing. Rather than limiting the time allowed to speakers, it would be better to exclude general debate, since each delegation had already explained the position of its country at length and knew the position of others. The Conference would thereby save valuable time.

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Mr. OGISO (Japan) shared the Chairman's concern with regard to the progress of the work; the informal consultations within each of the three Committees were, however, making steady, if somewhat slow, progress. Each committee had carried out consultations in its own way, principally on the basis of interest groups. Rather than change methods at so late a stage - which would inevitably create confusion - it would be better to try to maintain the existing momentum. Obviously, no delegation would wish to be excluded, through a restricted negotiating procedure, from discussions on issues of particular concern to it. Neither the work of the proposed contact groups nor any other negotiating work should be undertaken outside the existing informal machinery.

Mr. de LACHARRIÈRE (France) observed that the Conference was making progress, however slow, particularly in considering questions of substance and procedures. As to whether informal contact groups should be set up, his delegation believed that the prime need was to preserve the feeling of universal participation in the convention; otherwise delegations which felt that they had been excluded from the negotiating process would question, in a wider forum, the results of the process. Consequently, the main risk was that the small contact groups might delay the work. Any machinery established should be characterized by extreme flexibility with regard to the number and the selection of its members, who should not be designated by the regional groups. The experience of the Conference had shown that the regional groups were easily split or overruled by combinations of interest groups. The procedures so far established were beginning to function, and the negotiating groups established within the committees at the instigation of the chairman were already producing useful results - an indication that the procedure was promising. To supplement that process, his delegation proposed that the chairmen of all the Committees should establish any negotiating groups that they might deem necessary, in consultation with delegations having a particular interest in the problems being considered.

Mr. ZEA (Colombia) thanked the Chairman for his efforts to speed up the work; the proposed new system should not, however, disrupt the functioning of the existing groups. He asked how the transfer of the work of the existing groups to the proposed regional contact groups would be arranged and whether the proposed consultative group would be able to take the initiative itself or whether it would be required

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simply to consider the conclusions submitted to it. Moreover, there was reason to fear that under the new system it would be difficult for individual delegations to get a hearing. The Latin American group was preparing new suggestions for improving the progress of the work, and in that connexion the Peruvian proposal on holding informal plenary meetings should be adopted.

Mr. KNOKE (Federal Republic of Germany) said that he shared the doubts expressed by the representatives of the United Kingdom and Japan regarding the wisdom of establishing regional contact groups. It was well known that there was no unity of doctrine within the regional group of Western European and other States, and it would be very difficult for one of those States to represent all the others. All countries must be placed on an equal footing. The existing working groups had achieved some progress, and they should be given the opportunity to continue their work, the chairmen being specifically responsible for encouraging them to work more quickly. The Peruvian proposal for a time-limit on statements was certainly sensible; on the other hand, he doubted whether informal plenary meetings were advisable.

Mr. YOLGA (Turkey) said that he shared the doubts expressed by previous speakers. It was clear that the Conference was not making as rapid progress as might be desired, but that was hardly surprising in view of the volume and complexity of the work to be done. A reasonable system of work had been established by trial and error, and practical results had been obtained. The Second Committee, for example, had prepared a very interesting document on baselines. The First and Third Committees were showing signs of a softening of positions, and it would be regrettable if the Conference, discouraged by the slow pace of the work, took the risk of losing the benefit of three weeks' work by changing the system. His delegation doubted the usefulness of contact groups composed of only the chairmen of the regional groups. Such groups could carry out useful work only if the chairmen concerned could speak on behalf of all the other members of the group which they represented, but within the regional groups ideas were not always identical and interests diverged widely. With regard to the Drafting Committee, he agreed with the Chairman that that Committee should have before it texts that were already complete, and the Conference was clearly not yet at that stage. A number of proposals had been made about the organization of the work, but the essential rule was to permit each delegation to express its views.

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Mr. OGUNDERE (Nigeria) acknowledged that progress was slow but felt that it was gaining momentum. As the representatives of the Federal Republic of Germany and Turkey had stated, for each delegation there were certain issues with which it was particularly concerned, and no chairman of a regional group would be in a position to speak on behalf of all the members of his group. Moreover, the negotiating groups and the informal working groups were already in the process of drawing up proposals to be submitted to their respective Committees and thereafter referred to the Drafting Committee, if necessary. Accordingly, those methods of work should continue to be used, particularly since they made interaction among the individual interest groups possible. The Conference possessed tools which might be imperfect, but to which it was becoming accustomed. If it wished to change them, it would have to start again from the beginning.

Mr. STEVENSON (United States of America) agreed with the representative of France that progress was being made and that the outcome of the current negotiations would soon become apparent. It was certainly desirable for the President of the Conference to continue doing his utmost to accelerate the work. One of the best ways of facilitating negotiations and saving time was to avoid holding too many formal meetings.

At the level of the committees with regard to the vertical column, the powers of decision of the chairmen and officers should be strengthened and they should be encouraged to take the initiative and to continue their work, using the same methods. On the horizontal plane, it was necessary to avoid wasting time and to find a means of establishing links between the Committees. His delegation had no preconceived ideas about how to attain that goal; the representative of Chile had suggested that co-ordination should be effected through the officers of the committee, as had already been done to some extent. In any case, it would be useful to have a forum in which to discuss proposals which transcended the boundaries between committees.

Mr. KOH (Singapore) said the Chairman's proposal was probably unrealistic, in view of the importance of the subjects being dealt with by the Conference and the diversity of interests represented in it. Delegations hesitated to entrust their interests to spokesmen from elsewhere. He had another suggestion to make: the

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General Committee might ask the other three Committees to make a rapid survey of the methods of work they were using and to report back in a few days, indicating what improvements or new methods they recommended for speeding up the work. The Chairman of the working group of the First Committee had proposed that he should submit to the group a text which would serve as a basis for negotiations. In the Second Committee, the method used had been that of small special-interest groups, dealing with such subjects as baselines and historic waters. However, within the latter Committee the large number of variants constituted an obstacle to the rapid progress of the work. The Chairman of the Second Committee might therefore consider drawing up a text on the basis of which negotiations could be conducted.

He fully supported the Peruvian proposal that statements should be subject to a time-limit and should be confined to matters of substance and textual points.

Mr. PERISIC (Yugoslavia) said that at so late a stage it would be a retrograde step to convert the General Committee into a consultative group, after all the effort that had been expended by delegations in recent weeks. He pointed out that participants had reached a uniform position on certain questions, and that the Group of 77 had played a constructive role. It therefore seemed best to leave existing bodies the room for manoeuvre they already had; as for the Drafting Committee, its task should be to give the final touches to texts on which agreement had been reached.

Mr. YANKOV (Bulgaria) said that he too was concerned at the slow progress being made by the Conference; he thought, however, that the first question to be answered was to what extent the problem confronting the Conference was a technical one. In his view, there was indeed a technical problem, but there was also a political problem. The will of participants to negotiate should be strengthened, and the Conference should utilize its preparatory work in order to reduce the number of variants and to arrive at compromise texts.

As for the participation of members of the Conference in negotiations, it was evident that participation varied according to the committee considered, but could be ensured through both formal and informal negotiations. In the Third Committee, for example, discussion of the two main questions before the Committee, namely, marine pollution, and scientific research and the transfer of technology, was arranged in such a way as to ensure the participation of all members.

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On the question of the effectiveness of the deliberation, it was clear that the results depended on the texts that had been prepared. Small working groups were therefore preparing drafts which the Committees then considered at informal meetings.

He had no objections to the setting up of a consultative group, but since no general agreement had as yet emerged on the subject, he thought that such a step would be premature. The Chairman should find a way of bringing the delegations concerned together to consider the most controversial of the critical questions before the Committee and initiate discussions of a political nature.

A will to negotiate was beginning to emerge, and members must succeed in preventing the Conference from turning into a permanent institution.

With regard to the Peruvian proposal that the Conference should hold informal plenary meetings, he did not think that that suggestion would help to speed up the pace of the work; however, it would be useful to limit the time allowed to speakers, although the five-minute time-limit envisaged by the Peruvian representative would be difficult to adhere to.

Mr. ZECERS (Chile) said it was essential to achieve practical results at the current session, since public opinion would not understand why the Conference was continuing indefinitely. He agreed with the representatives of France and the United States that the Conference had made some progress, and that the problem lay in the fact that that progress had been made at informal meetings in which many delegations had not participated. The solution was to ensure the participation of all delegations in negotiations and to give official status to results obtained within working groups.

Moreover, as had been pointed out by the representative of Singapore, it did not seem possible to work on the basis of a whole series of variants; the Conference should have a single basic text before it. The Second Committee, for example, in spite of the efforts of its Chairman, and unlike the First and Third Committees, had no basic text. He therefore fully supported the proposal of the representative of Singapore, which went to the heart of the problem.

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However, there remained a problem of co-ordination: questions involving scientific research and pollution, for instance, were linked to the powers exercised by the coastal state over the economic zone. Since those questions had been referred to different committees, difficulties would arise if the work of the Third Committee did not go forward at the same pace as that of the Second Committee. It was the General Committee which should provide liaison between the work of the three Committees; the United States representative had also mentioned that co-ordinating role.

In short, what was needed was some machinery for giving official status to the results achieved by the informal working groups, for preparing texts that could serve as a basis for negotiation and for co-ordinating the work of the three Committees.

Mr. ENGO (United Republic of Cameroon) said that the exchange of views that had just taken place had been frank and fruitful; however, without formally requesting the closure of the debate, he suggested that the Committee should conclude its consideration of the matter in order to enable the working groups to continue their work.

Mr. KEDADI (Tunisia) said that he shared the Chairman's concern as to the pace of the Conference's work; his delegation had some doubts, however, about the Chairman's proposal that formal negotiating machinery should be set up and that the Drafting Committee should be instructed to make a choice among a number of variants.

In spite of the proliferation of working groups, delegations preferred that method; it seemed to have produced good results, notably in the First and Third Committees, since it enabled delegations to take into account their national and regional interests. It would therefore be difficult to make any change in procedure. Moreover, he believed that members should have confidence in the chairmen of the Committees, should not press for undue haste in the negotiations, and should ask the Chairman of the Second Committee to prepare a basic text and make it available to the working groups. Lastly, the President of the Conference might co-ordinate the activities of the three Committees, hold daily meetings with their Chairmen and, if necessary, convene plenary meetings of the Conference for the purpose of adopting texts drafted in committee before sending them to the Drafting Committee.

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Mr. MAHIOU (Algeria), said that, in the interests of democracy and equality, negotiating groups should be open to all participants. In addition, the groups should work on the basis of what had already been achieved; in several cases consensus had already emerged. When a committee had before it a large number of texts - as was the case with the Second Committee - it should endeavour to reconcile all points of view. As the Peruvian representative had said, the adoption of global and national positions should be avoided as far as possible, since the position of each country was well known. He considered that the proposals made by the Peruvian representative contained a number of constructive elements which merited the attention of the Committee.

The CHAIRMAN pointed out that at the beginning of the meeting he had submitted no formal proposals, but had merely informed the Committee of suggestions he had discussed with the Chairmen of the three Main Committees and the Chairmen of the regional groups. It had never been his intention to alter the methods of work being employed by the Committees. He fully shared the view of some speakers that in preparing a convention of the type contemplated, there should be maximum participation by all members of the Conference, not restricted participation. It was nevertheless true that the limited membership of certain negotiating groups had not prevented them from conducting fruitful negotiations. Some members found negotiations in small working groups useful, while at the same time maintaining that all delegations should participate in negotiations; he did not believe that those two points of view were incompatible. If the procedure already being followed proved satisfactory, there would be no need to modify it.

With regard to the proposal by the Peruvian representative that informal plenary meetings should be held, he thought it would be premature to take such action and that such meetings might duplicate the activities of other bodies.

On the subject of the proposal by the representative of France, he said that the procedure in question was already being followed by the First and Second Committees.

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He considered that the suggestion made by the representative of Singapore, to the effect that the Chairman and officers of the Second Committee should consider asking one of the members of the General Committee to prepare a text which could serve as a basis for negotiation, was of great importance.

He fully supported the suggestion by the Peruvian representative that the time allowed to speakers during negotiations should be limited. In that connexion, he said that the Chairman of the First Committee had reported that the members of that committee were endeavouring to practise self-discipline.

In conclusion, he said that he would, as proposed by the representative of Bulgaria, hold daily meetings with the Chairmen of the three Main Committees in order to keep himself informed of the progress achieved in each committee and to assess the effectiveness of methods of work. He would report to the Committee on the matter at the following meeting.

The meeting rose at 11.55 a.m.

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